

EXHIBIT 2

**First Deposition of Andrew
Zimbalist (redacted)**

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

- - - - - x

Cung Le, Nathan Quarry, John Fitch
Brandon Vera, Luis Javier Vazquez,
and Kyle Kingsbury on behalf of
themselves and all others
similarly situated, Case No.

Plaintiffs, 2:15-cv-01045-RFB(PAL)

v.

Zuffa, LLC, d/b/a Ultimate,
Fighting Campionship and UFC,
Defendants.

- - - - - x

HIGHLY CONFIDENTIAL
VIDEOTAPED DEPOSITION OF
ANDREW ZIMBALIST, Ph.D.
Northampton, Massachusetts

Magna Legal Services Reported By:

(866) 624-6221 MaryJo O'Connor, RMR/CSR
Www.MagnaLS.com Job No: 345726

<p>1 2 3 4 5 6 Monday, September 25, 2017 7 8:42 a.m. 8 9 VIDEOTAPED DEPOSITION of ANDREW 10 ZIMBALIST, Ph.D., held at Hotel 11 Northampton, 36 King Street, Northampton, 12 Massachusetts, pursuant to notice, before 13 MaryJo O'Connor, Registered Merit Reporter, 14 Certified Court Reporter, and Notary Public 15 in and for the Commonwealth of 16 Massachusetts. 17 18 19 20 21 22 23 24 25</p>	<p>Page 2</p> <p>1 A P P E A R A N C E S, Cont. 2 3 ATTORNEYS FOR PLAINTIFFS: 4 COHEN MILSTEIN 5 1100 New York Avenue, NW 6 Suite 500, West Tower 7 Washington, D.C. 20005 8 (202)408-4600 9 BY: DANIEL H. SILVERMAN, ESQ. 10 dsilverman@cohenmilstein.com 11 12 13 ATTORNEYS FOR DEFENDANT ZUFFA, LLC, d/b/a 14 ULTIMATE FIGHTING CHAMPIONSHIP and UFC: 15 BOIES SCHILLER FLEXNER LLP 16 1401 New York Avenue, NW 17 11th Floor 18 Washington, D.C. 20005 19 (202) 237-2727 20 BY: WILLIAM A. ISAACSON, ESQ. 21 wisaacson@bsfllp.com 22 RORY L. SKAGGS, ESQ. 23 rskaggs@bsfllp.com 24 25 ALSO PRESENT: Luc-Bernard Val, Videographer</p>
<p>1 A P P E A R A N C E S: 2 3 ATTORNEYS FOR PLAINTIFFS: 4 BERGER & MONTAGUE, P.C. 5 1622 Locust Street 6 Philadelphia, Pennsylvania 19103 7 (215)875-3000 8 BY: ERIC L. CRAMER, ESQ. 9 ecramer@bm.net 10 11 12 ATTORNEYS FOR PLAINTIFFS: 13 JOSEPH SAVERI LAW FIRM 14 2130 Fulton Street 15 San Francisco, California 94117 16 (415)422-6223 17 BY: JOSHUA P. DAVIS, ESQ. 18 davisj@usfca.edu 19 20 21 22 23 24 25</p>	<p>Page 3</p> <p>1 -----I N D E X----- 2 3 WITNESS EXAMINATION BY PAGE 4 ANDREW ZIMBALIST MR. ISAACSON 9 5 6 -----EXHIBITS----- 7 ZIMBALIST EXHIBIT PAGE 8 Exhibit 1 9 Document entitled "Expert Report 10 of Andrew Zimbalist in Cung Le, et al 11 v. Zuffa, LLC"..... 7 12 Exhibit 2 13 Document entitled "Errata to the 14 Expert Report of Andrew Zimbalist in 15 Cung Le, et al, v. Zuffa, LLC"..... 7 16 Exhibit 3 17 Document entitled "Consolidated 18 Amended Antitrust Class Action 19 Complaint"..... 12 20 Exhibit 4 21 Exhibit 3, "Analysis of Revenues of 22 Expenses on an Event-by Event, 23 Boxer-by-Boxer Basis"..... 245 24 25</p> <p>Page 5</p>

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1	don't remember exactly how it came out, but 09:43:48	1	"market." I was not asked to do 09:46:35
2	Zuffa in, say, two years ago had at least 09:43:51	2	cross elasticity of demand or snip tests. 09:46:39
3	90 percent of the top 15 fighters in the 09:43:56	3	I've done no formal analysis of market 09:46:43
4	weight classes that I looked at. So it was 09:43:59	4	power here. 09:46:48
5	somewhere along those lines. 09:44:02	5	And so I'm -- when I say 09:46:49
6	Obviously, prior to the 09:44:03	6	"anticompetitive in character," I mean if a 09:46:54
7	acquisition of Strikeforce in 2011, they 09:44:05	7	company that had market power engaged in 09:46:57
8	had somewhat of a lower share, but it was 09:44:08	8	this behavior, would it have 09:47:00
9	always a dominant share, at least in the 09:44:10	9	anticompetitive effects. 09:47:04
10	class period. 09:44:15	10	Q. All right. And does your report 09:47:15
11	Q. When you're referring to metrics 09:44:15	11	do any analysis of the extent of the 09:47:17
12	that identify top fighters, are you 09:44:17	12	anticompetitive effects from the challenged 09:47:21
13	referring to published rankings? 09:44:19	13	conduct assuming that Zuffa had market 09:47:26
14	A. Yes. 09:44:21	14	power? 09:47:29
15	Q. And your report does not do any 09:44:24	15	A. Does it do any analysis? Say 09:47:29
16	actual work on identify who are the top 09:44:25	16	that again? 09:47:32
17	fighters and who are not? 09:44:28	17	Q. Of the extent of the 09:47:34
18	A. That's correct. 09:44:30	18	anticompetitive effect. 09:47:36
19	Q. And when you say "a large share," 09:44:32	19	MR. CRAMER: Other than the 09:47:37
20	do you count that large share by the number 09:44:37	20	damages analysis? Or are you 09:47:38
21	of fighters, that is by counting the 09:44:39	21	including that? 09:47:40
22	individuals? 90 percent would be nine out 09:44:43	22	Q. Well, is there an analysis of an 09:47:41
23	of ten of the individual fighters? 09:44:45	23	anticompetitive effect in your report other 09:47:51
24	A. As opposed to weighting them by 09:44:47	24	than the damages analysis? 09:47:54
25	the -- 09:44:49	25	A. So I'm not clear what you're 09:48:02
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1	Q. Weighting by anything. 09:44:50	1	driving at. I have a discussion and 09:48:03
2	A. Yes. I'm talking about a 09:44:51	2	analysis of how the individual exclusionary 09:48:06
3	straight headcount. 09:44:53	3	clauses impact the market and how it 09:48:12
4	Q. Now, I asked -- one more 09:44:55	4	forecloses the market. And then on the 09:48:15
5	assumption I want to check on. Are you 09:45:22	5	basis of that, I do an empirical damage 09:48:20
6	assuming that the challenged conduct as a 09:45:23	6	estimate. 09:48:23
7	whole is in violation of the antitrust 09:45:25	7	So when you said have I done any 09:48:24
8	laws? 09:45:28	8	analysis of the effect, I'm not sure what 09:48:30
9	MR. CRAMER: For which purpose? 09:45:30	9	you're... 09:48:32
10	MR. ISAACSON: For purposes of 09:45:31	10	Q. In your view, the damages in this 09:48:33
11	estimating damages. 09:45:32	11	case would be an anticompetitive effect 09:48:35
12	A. I think the answer is yes. 09:45:34	12	that flowed from the challenged conduct in 09:48:38
13	Q. In Paragraph 4 you talk about 09:45:55	13	this case if that conduct were true and if 09:48:40
14	your assignment in this case. "Counsel for 09:46:00	14	Zuffa had market power, correct? 09:48:42
15	Plaintiffs have asked me to determine." In 09:46:04	15	A. Yes. Yes. 09:48:45
16	(a) it says, "whether the challenged 09:46:08	16	Q. Is there any other 09:48:46
17	conduct is anticompetitive in character and 09:46:11	17	anticompetitive effect that you have 09:48:49
18	thus would have anticompetitive effects if 09:46:13	18	measured or quantified that flows from the 09:48:51
19	engaged in an entity with monopoly or 09:46:16	19	alleged exclusionary conduct in this case 09:48:54
20	monopsony power." 09:46:19	20	assuming that Zuffa had market power? 09:49:02
21	I want to know what you mean by 09:46:21	21	A. Not that I have quantified, no. 09:49:04
22	"anticompetitive character." Is that 09:46:25	22	Q. When you say "anticompetitive in 09:49:05
23	different from saying it's anticompetitive? 09:46:29	23	character" in your report, would it mean 09:49:09
24	A. So I'm not doing a liability 09:46:31	24	the same thing if you just said 09:49:11
25	report here. I was not asked to define 09:46:33	25	"anticompetitive"? 09:49:13

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1	to the absence of labor market competition. 10:19:36	1	Q. And any conduct that led to 10:22:02
2	So the comparators that I'm 10:19:43	2	reduced competition when if you use your 10:22:19
3	looking at are comparators that have more 10:19:45	3	damages method would reach the same damages 10:22:29
4	competitive labor markets to see what 10:19:49	4	result, correct? 10:22:33
5	happens to the labor share when the labor 10:19:51	5	MR. CRAMER: Objection to form. 10:22:34
6	markets are more competitive. 10:19:53	6	A. Any conduct that led to the 10:22:39
7	And I'm not particularly looking 10:19:57	7	absence of competition in the Zuffa labor 10:22:42
8	for a comparison of clauses from a Zuffa 10:20:00	8	market would lead to the same -- 10:22:46
9	contract to an NBA contract or from the 10:20:03	9	Q. I've been using the term "reduced 10:22:49
10	Zuffa contract to a boxing contract. I'm 10:20:05	10	competition" as opposed to "absence of 10:22:53
11	looking at whether or not there is a basis 10:20:09	11	competition." If they're -- but I will -- 10:22:55
12	structurally for being able to assert and 10:20:12	12	if you want, we'll go over that 10:22:57
13	to know that there is competitive behavior 10:20:14	13	distinction. 10:23:00
14	going on. 10:20:18	14	But are you assuming that the 10:23:01
15	Q. So I'm trying to understand what 10:20:24	15	challenged conduct in this case led to an 10:23:07
16	you're saying. I hate the phrase, but 10:20:26	16	absence of competition and not just reduced 10:23:10
17	you're familiar with the phrase the 10:20:29	17	competition? 10:23:12
18	"but-for world"? 10:20:30	18	A. If not complete absence, pretty 10:23:13
19	A. I've heard it before. 10:20:32	19	close to it. 10:23:25
20	Q. Yes. And for purposes of 10:20:33	20	Q. All right. Would any conduct -- 10:23:27
21	estimating damages in your but-for world, 10:20:35	21	if you assume -- let's start over. 10:23:31
22	is the challenged conduct not happening? 10:20:38	22	If I apply your damages method 10:23:36
23	And by "the challenged conduct," 10:20:42	23	where I compare a world with reduced 10:23:42
24	I mean as you've defined it today in this 10:20:44	24	competition to one with more competition, 10:23:45
25	deposition. 10:20:46	25	if I am estimating damages from anything 10:23:48
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1	MR. CRAMER: Objection to form. 10:20:47	1	that reduce competition, I'd reach the same 10:23:56
2	Go ahead. 10:20:48	2	damages result; is that right? 10:23:59
3	A. The challenged conduct in Zuffa 10:20:48	3	MR. CRAMER: Objection to form. 10:24:00
4	leads to the absence of competition in the 10:20:49	4	A. I think that's fair. 10:24:01
5	labor market. I'm looking in a but-for 10:20:51	5	Q. All right. So if would could 10:24:07
6	world where there is competition in the 10:20:55	6	look at Page 81, which has your Table 4. 10:24:20
7	labor market. 10:21:01	7	A. Would you prefer to look at the 10:24:32
8	Q. I think I understand you, but I'm 10:21:02	8	errata that has the updated version? 10:24:34
9	going to go over it again to make sure. 10:21:04	9	Q. Yes, I was about to say. And I 10:24:37
10	Have you assumed that the 10:21:06	10	understand that it's been slightly modified 10:24:38
11	challenged conduct, as you've defined it in 10:21:18	11	by the errata. Sure, let's look at the 10:24:40
12	this case, leads to reduced competition? 10:21:22	12	errata. Exhibit 2 Table 4-E. 10:24:44
13	A. Well, I've either concluded that 10:21:26	13	[REDACTED] 10:25:04
14	or I've assumed it, but it's part of my 10:21:32	15	corner, correct? 10:25:05
15	analysis. 10:21:35	16	A. Yes. 10:25:06
16	Q. Well, I want to -- I appreciate 10:21:36	17	Q. And that's obtained by comparing 10:25:06
17	you telling me either assumed it or 10:21:39	18	a world with more competition to less 10:25:11
18	concluded it. But does your report assume 10:21:42	19	competition; is that correct? 10:25:15
19	that the challenged conduct led to reduced 10:21:44	20	A. Several worlds with more 10:25:15
20	competition? 10:21:47	21	competition, yes. 10:25:18
21	A. Yes. 10:21:48	22	Q. And by "several worlds," you mean 10:25:18
22	Q. And for purposes of damages, are 10:21:48	23	NFL, NHL, NBA, MLB, boxing? 10:25:23
23	you comparing a world with more competition 10:21:57	24	A. Correct. 10:25:25
24	to one with less competition? 10:22:00	25	Q. But there is actually one world 10:25:25
25	A. Yes. 10:22:02		

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1	A. I've explained some of the 2 reasons for which it's conservative. 12:56:24	1 Q. If there was another explanation, 12:58:55 2 we'll call it X, that was the cause of some 12:58:58
3	Q. And you've explained why it's 12:56:28	3 or all of the difference between the five 12:59:04
4	conservative in your report. 12:56:30	4 sports leagues and Zuffa, some or all of 12:59:08
5	A. Yes. 12:56:31	5 [REDACTED] 12:59:12
6	[REDACTED] 12:56:34	6 acts -- I know I got to start the question 12:59:17
7	A. Yes. 12:56:36	7 over because I want to include 12:59:20
8	Q. -- right, you are attributing all 12:56:36	8 anticompetitive acts. 12:59:23
9	of that amount, that all of that 12:56:39	9 If there was another explanation 12:59:24
10	difference, to what you have assumed to be 12:56:44	10 called X that was the cause of some of the 12:59:26
11	anticompetitive acts of Zuffa, correct? 12:56:46	11 difference between the five sports leagues 12:59:28
12	A. That's correct. 12:56:49	12 and Zuffa -- we're talking about the share 12:59:29
13	Q. And you have not tried to inject 12:56:50	13 of labor costs -- and some was caused by 12:59:31
14	into your analysis what would be the effect 12:56:53	14 anticompetitive acts, your damages model 12:59:35
15	of considering any other explanation or 12:56:56	15 would not be able to estimate the amount of 12:59:40
16	[REDACTED] 12:57:00	16 damages due to the anticompetitive acts; is 12:59:42
17	A. Such as? 12:57:03	17 that correct? 12:59:44
18	Q. Anything. 12:57:05	18 A. And you're postulating, even 12:59:44
19	MR. CRAMER: Objection to form. 12:57:05	19 though you didn't explicitly say it, that 12:59:47
20	A. That's correct. 12:57:06	20 this variable X is present in the five 12:59:50
21	Q. In speaking mathematically, if 12:57:08	21 comparators and is not present -- 12:59:52
22	there was a second variable or explanation 12:57:22	22 Q. Correct. 12:59:54
23	for that difference, let's call it X. If 12:57:26	23 A. -- in Zuffa. 12:59:55
24	you compared Zuffa and the five other 12:57:33	24 Then you're right, yes. 01:00:02
25		25 Q. If X was present in four of the 01:00:03
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1	sports and attributed all of the 12:57:39	1 five comparators, would your damages model 01:00:06
2	[REDACTED] 12:57:44	2 be able to estimate -- and so there were 01:00:14
3	anticompetitive conduct, by definition X 12:57:49	3 some damages caused by anticompetitive 01:00:16
4	[REDACTED] 12:57:52	4 acts, some damages caused by X, and X was 01:00:18
5	in damages. 12:57:55	5 not present in four of the -- 01:00:23
6	MR. CRAMER: Objection to form. 12:57:57	6 A. In one. 01:00:25
7	Q. That's the way the model works, 12:57:57	7 Q. Right. 01:00:26
8	right? 12:57:59	8 -- and not present in one, 01:00:26
9	A. Well, not exactly. One would 12:58:00	9 right -- thank you -- your model would not 01:00:28
10	have to identify the presence of X in the 12:58:04	10 be able to estimate damages; is that 01:00:33
11	five comparators and the absence of X in 12:58:09	11 correct? 01:00:35
12	Zuffa, and I haven't done that and you 12:58:13	12 A. Well, look, if we're traveling 01:00:35
13	haven't done that. So I can't say that we 12:58:15	13 down this hypothetical road, I would more 01:00:37
14	would attribute the difference to X. 12:58:19	14 than likely not throw out the fifth 01:00:39
15	But what is true is that the five 12:58:22	15 comparator where X wasn't present. And 01:00:41
16	comparators have considerably more 12:58:25	16 also if I was trying to do this where I was 01:00:45
17	competition in their labor markets and 12:58:28	17 trying to segregate out the partial 01:00:47
18	Zuffa doesn't have it. 12:58:31	18 influence of different variables, I 01:00:51
19	So you would have to produce for 12:58:32	19 probably would be doing a year-by-year 01:00:53
20	me a variable where it was present in the 12:58:34	20 analysis and doing multiple regression. I 01:00:55
21	five comparators but it's not present in 12:58:39	21 wouldn't be using this model. 01:00:58
22	Zuffa. And then I would say, fine; that 12:58:42	22 Q. If X was present in only one of 01:01:00
23	variable, maybe along with the degree of 12:58:46	23 the comparators, and X contributed to the 01:01:08
24	competition, together are causing the 12:58:49	24 difference between Zuffa and the five 01:01:13
25	underpayment of the Zuffa fighters. 12:58:53	25 sports, and anticompetitive acts 01:01:17

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1	contributed to the difference, would you be able to estimate aggregate damages?	01:01:20	1	you selected as a yardstick or benchmark for purposes of determining damages in an antitrust case the five sports comparisons that are in your report, correct?	01:03:17
2	A. I'd throw out the one and I'd have four comparators that didn't have that.	01:01:22	2		01:03:20
3		01:01:24	3		01:03:24
4		01:01:26	4		01:03:29
5		01:01:29	5	A. Yes.	01:03:30
6	Q. I must be saying this wrong, because you'd have to throw out four under my example.	01:01:29	6	Q. Now, is there a literature in your field that set standards for how you go about selecting benchmarks or yardsticks in this circumstance?	01:03:31
7		01:01:31	7		01:03:35
8		01:01:34	8		01:03:38
9	A. Oh, I would?	01:01:34	9		01:03:41
10	Q. Yes.	01:01:37	10	MR. CRAMER: Objection to form.	01:03:43
11	A. Okay, so in you're saying -- okay, in your -- what you want me to do over and above is to estimate the influence of X.	01:01:37	11	A. A literature that details the best way to select yardsticks?	01:03:46
12		01:01:39	12		01:03:51
13		01:01:41	13	Q. That sets standards for setting yardsticks.	01:03:53
14		01:01:43	14		01:03:55
15	Q. Right.	01:01:43	15	MR. CRAMER: Objection to the extent it calls for a legal conclusion. But you can answer, if you understand the question.	01:03:56
16	A. And I only have one comparator in the world that where X is present --	01:01:44	16		01:03:57
17		01:01:45	17		01:03:58
18	Q. Yes.	01:01:48	18		01:04:00
19	A. -- and Zuffa doesn't have X. And you want me to estimate damages with a sample of one?	01:01:49	19	A. I'm not sure there is a broad literature. There are certain standards where you try to take benchmarks that have as much basic in common with the thing you're comparing it to.	01:04:07
20		01:01:52	20		01:04:08
21		01:01:54	21		01:04:10
22	Q. Yes.	01:01:55	22		01:04:13
23	A. I'm not taking the case.	01:01:55	23		01:04:19
24	Q. Okay. And the sample of one would be one of your five sports. That's	01:01:56	24	Q. All right. If --	01:04:21
25		01:01:59	25	A. And it varies with one important	01:04:22
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1	what we're referring to in this context.	01:02:02	1	characteristic.	01:04:25
2	A. That's what I understood you to be referring to.	01:02:04	2	Q. All right. If I wanted to determine how an economist for purposes of estimating damages using a yardstick or benchmark in an antitrust case should go about selecting an appropriate yardstick or benchmark, where would I look?	01:04:28
3		01:02:06	3		01:04:32
4	Q. All right. When you have it, your estimate of damages, would that be also be called a yardstick analysis?	01:02:07	4		01:04:35
5		01:02:21	5		01:04:38
6		01:02:25	6		01:04:45
7	A. I guess you could call it that, if you want to call it that.	01:02:26	7		01:04:48
8		01:02:28	8	A. You're asking me for the name of an article or articles or a book? I can't give that to you as I sit here.	01:04:51
9	Q. Is there another name in your field that you would call it?	01:02:30	9		01:04:53
10		01:02:32	10		01:04:56
11	A. A comparator analysis.	01:02:33	11	You're talking about an antitrust case rather than in general. You look for industries that have competition in the area that you're trying to identify that have -- at the same time have as much in common with the enterprise or the industry that you're comparing it to.	01:04:59
12	Q. All right. Now, within your field --	01:02:36	12		01:05:01
13		01:02:40	13		01:05:04
14	A. Benchmark analysis.	01:02:40	14		01:05:06
15	Q. Benchmark, all right.	01:02:41	15		01:05:11
16	Within your field, are there standards for estimating the effect of alleged anticompetitive conduct in estimating damages?	01:02:43	16		01:05:14
17		01:02:46	17		01:05:16
18		01:02:52	18	Q. All right. Now, you say there would have to be as much in common. Is there a field of study that I would look to, a type of article, a type of study?	01:05:22
19	A. I have to ask you to repeat that, because I was getting --	01:02:52	19		01:05:30
20		01:03:10	20		01:05:34
21	Q. I'm going to ask the question over. Don't worry about it.	01:03:10	21		01:05:37
22		01:03:10	22	How do I go about determining what are the standards for an economist in choosing a yardstick or benchmark in a situation such as this?	01:05:43
23	A. Thank you. Sorry about that.	01:03:10	23		01:05:45
24		01:03:14	24		01:05:47
25	Q. Are there standards in your -- so		25		01:05:51

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1 A. I can't point you to any journal 01:05:51
 2 article. 01:05:54

3 Q. In picking a yardstick, would you 01:05:55
 4 agree with the statement that you should 01:06:07
 5 identify a firm or firms that are similar 01:06:09
 6 to Zuffa in all respects except for the 01:06:14
 7 impact of the alleged antitrust violation? 01:06:18
 8 A. I believe that, as I said a 01:06:22
 9 moment ago, that you try to pick 01:06:26
 10 comparators that have as much in common 01:06:29
 11 with the base enterprise or industry as 01:06:32
 12 possible but vary in the important respect 01:06:34
 13 that you're trying to identify. 01:06:38

14 Q. So what you have said is slightly 01:06:43
 15 different than what I said, and I want to 01:06:45
 16 explore that. 01:06:47

17 So you're using the phrase "as 01:06:48
 18 much in common," and I'm using "similar in 01:06:51
 19 all respects except for the impact of the 01:06:54
 20 alleged antitrust violation," right? 01:06:56

21 A. Okay. 01:06:58

22 Q. Is it the appropriate standard 01:06:58
 23 that you should identify a firm or firms 01:07:05
 24 that are similar to Zuffa in all respects 01:07:07
 25 except for the impact of the alleged 01:07:09

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1 antitrust violation? 01:07:11
 2 MR. CRAMER: Objection. Asked 01:07:13
 3 and answered. Also object to the 01:07:13
 4 extent it calls for a legal 01:07:16
 5 conclusion. But asked and answered, 01:07:17
 6 and form. 01:07:18
 7 A. If you're asking me -- 01:07:19
 8 Q. My question is -- 01:07:21
 9 A. If you're asking me wouldn't it 01:07:22
 10 be desirable to have everything exactly the 01:07:24
 11 same except the level of competition, I 01:07:26
 12 would say yes. 01:07:28

13 We're doing the real world, not a 01:07:29
 14 laboratory experiment here, and so you try 01:07:32
 15 to find as much as possible in common 01:07:34
 16 except for the variable that you're trying 01:07:36
 17 to identify the impact of. That's what I 01:07:38
 18 believe. 01:07:40

19 Now, if you want to use just 01:07:40
 20 [REDACTED] 01:07:43
 21 percentage, because I didn't consider some 01:07:46
 22 higher percentage information, if you want 01:07:49
 23 to use just boxing, I'll come out with 01:07:52
 24 larger. And they're not identical in other 01:07:55
 25 respects, but they're very similar. 01:07:58

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1 Q. But you've already told me, 01:08:00
 2 however, you would not do a benchmark 01:08:00
 3 analysis. You wouldn't even have taken the 01:08:04
 4 case if you're doing a benchmark analysis 01:08:05
 5 based on only one of the sports. 01:08:07
 6 A. No, you were talking about 01:08:08
 7 identifying multiple variables of 01:08:10
 8 influence. 01:08:12
 9 Q. All right. Am I correct that if 01:08:12
 10 you were doing a benchmark analysis based 01:08:13
 11 on only one of the five sports, you would 01:08:18
 12 have declined to do that analysis? 01:08:21
 13 A. No. Again, the context in which 01:08:23
 14 you asked me that was you wanted me to 01:08:25
 15 produce a methodology and be able to 01:08:29
 16 separate out various causal influences on 01:08:31
 17 the share being paid to labor. 01:08:34
 18 If I had boxing data for enough 01:08:37
 19 years, I could do a multiple regression 01:08:40
 20 analysis that might have enough data in it 01:08:44
 21 and might enable me to make a different 01:08:46
 22 kind of an estimate. Which to my mind it's 01:08:49
 23 always preferable to have more data and, in 01:08:51
 24 this case, to have more sports, more 01:08:55
 25 comparators, than fewer comparators. 01:08:58

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1 Q. Would you have taken the case if 01:09:02
 2 you were asked to do a benchmark analysis 01:09:04
 3 based on a comparison to boxing with the 01:09:06
 4 data you have? 01:09:08
 5 MR. CRAMER: Incomplete 01:09:11
 6 hypothetical. Form. 01:09:13
 7 A. So if I knew what I know today in 01:09:14
 8 terms of the amount of boxing data that I 01:09:19
 9 have -- 01:09:22
 10 Q. Yes. 01:09:22
 11 A. -- and I was back in last 01:09:22
 12 December when I was approached about 01:09:24
 13 working on this case, would I have taken 01:09:26
 14 the case? 01:09:28
 15 Q. Correct. 01:09:29
 16 A. I would have to think about it. 01:09:29
 17 Q. Now, going back to -- I 01:09:30
 18 understand you've told me what would be 01:09:41
 19 desirable -- it would be desirable to have 01:09:44
 20 everything exactly the same. That's not my 01:09:46
 21 question. 01:09:48
 22 In the standards of your 01:09:48
 23 profession as an economist conducting a 01:09:50
 24 yardstick analysis, do you agree that using 01:09:52
 25 a yardstick approach you should attempt to 01:09:56

	Page 154		Page 156
1	identify a firm or firms that are similar 01:09:59	1	that it could potentially pollute the 01:12:15
2	to Zuffa in all respects except for the 01:10:01	2	differences between the five sports and 01:12:18
3	impact of the antitrust violations? 01:10:04	3	Zuffa. 01:12:20
4	MR. CRAMER: Asked and answered 01:10:06	4	Did you do any empirical testing 01:12:21
5	several times. Form. Objection. 01:10:07	5	to determine whether any differences 01:12:24
6	A. What I think -- what I would look 01:10:12	6	between those sports do pollute the 01:12:27
7	for is comparators that are as similar as 01:10:14	7	estimate that you've made? 01:12:30
8	possible. I'd first look for the ones that 01:10:16	8	A. Yes, I did. 01:12:31
9	were similar in all respects. And if I 01:10:20	9	Q. And that was just looking at 01:12:32
10	didn't find ones that are identical, I 01:10:23	10	Zuffa's statements where they compared 01:12:34
11	would use them potentially if I felt like 01:10:26	11	themselves to other sports? 01:12:36
12	those areas in which they were different 01:10:28	12	A. No. 01:12:37
13	was not polluting the estimate that I was 01:10:30	13	Q. Okay. What empirical testing did 01:12:38
14	making. 01:10:33	14	you do? 01:12:40
15	Q. And have you done any empirical 01:10:38	15	A. So Mr. Fertitta initially said, 01:12:40
16	testing in this case to determine whether 01:10:43	16	you know, "We're doing very well relative 01:12:42
17	any of the differences between the five 01:10:46	17	to baseball and football and basketball." 01:12:44
18	sports and Zuffa potentially pollute the 01:10:47	18	And then somebody pointed out to him that 01:12:48
19	estimate that you have made? 01:10:51	19	they weren't. And so he now had a new 01:12:51
20	A. Have I done any empirical? Yes, 01:10:53	20	explanation. And the explanation he gave 01:12:53
21	I did. 01:10:55	21	[REDACTED] 01:12:54
22	Q. Okay. What empirical testing did 01:10:56	22	television, media production costs. 01:12:56
23	you do? 01:10:59	23	And so I fairly extensively 01:12:59
24	A. Well, Zuffa, as you know, or I 01:10:59	24	analyzed that, and I compared it to 01:13:00
25	hope you know, in many documents that it 01:11:01	25	baseball and made comments also about some 01:13:01
	Page 155		Page 157
1	commissioned and in statements that 01:11:07	1	of the other sports. 01:13:03
2	Mr. Fertitta made and I believe that 01:11:09	2	Q. So one factor you looked at to 01:13:04
3	Mr. Hendrick made -- I'm not certain about 01:11:14	3	determine whether it would pollute the 01:13:07
4	him, but other people made -- they're quite 01:11:17	4	comparison is the fact that Zuffa took on 01:13:09
5	happy to compare Zuffa with -- the Zuffa 01:11:19	5	the television production costs? 01:13:13
6	labor share with the share in team sports 01:11:24	6	A. Which is the only factor Zuffa 01:13:16
7	and the share in bullfighting and the share 01:11:27	7	itself referenced in terms of understanding 01:13:18
8	in tennis and the share in golf. They had 01:11:33	8	the difference in labor costs, or the share 01:13:20
9	a study done by Mercer where all of these 01:11:35	9	of labor costs. 01:13:22
10	comparators are included. 01:11:38	10	Q. Did you look at any other 01:13:23
11	Mr. Fertitta at one point said 01:11:40	11	differences that would pollute the 01:13:28
12	that it was appropriate to make the 01:11:42	12	comparison between the other sports as a 01:13:29
13	comparison and that Zuffa did quite well in 01:11:43	13	yardstick and Zuffa? 01:13:31
14	the comparison. 01:11:46	14	A. As I sit here today, I can't 01:13:32
15	So this methodology that you're 01:11:48	15	think of anything off the top of my head. 01:13:46
16	objecting to is something that Zuffa has 01:11:52	16	There might be in my report, but I can't 01:13:48
17	invited upon itself in various studies and 01:11:56	17	think of anything. 01:13:50
18	statements that its made over time. 01:11:59	18	Q. Do I understand your testimony 01:13:50
19	Q. I understand that you're saying 01:12:02	19	correctly that ideally in using a 01:13:51
20	that Zuffa has done comparisons between the 01:12:03	20	yardstick, you would like to identify a 01:13:56
21	sports and decided that they were 01:12:07	21	firm that's similar to Zuffa in all 01:13:59
22	appropriate, but that's not quite my 01:12:08	22	respects but for the impact of the 01:14:01
23	question. 01:12:11	23	antitrust violation. But absent that, you 01:14:03
24	I'm talking about -- you talked 01:12:11	24	will have looked to firms that have as much 01:14:07
25	about how the differences between the fact 01:12:14	25	in common as you can find? 01:14:09

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1 A. As similar as possible. And 01:14:11
 2 also, then, to try to adjust for any things 01:14:13
 3 that are not common. 01:14:16

4 Q. Is there any literature in your 01:14:16
 5 field, any textbook, anything that you can 01:14:20
 6 point to that says that the appropriate way 01:14:25
 7 to select a yardstick or benchmark is to 01:14:28
 8 find firms that are as similar as possible? 01:14:31
 9 A. As I said before, I cannot cite 01:14:33
 10 today any literature or specific journal 01:14:37
 11 articles. 01:14:43

12 Q. In selecting yardstick firms, 01:14:43
 13 should you look at -- 01:14:46
 14 A. Let me add something, because I'm 01:14:47
 15 not responding with specific journal 01:14:51
 16 articles. I have been involved in academic 01:14:53
 17 exercises and I've been involved in expert 01:14:59
 18 testimony in other cases where the standard 01:15:01
 19 of seeking comparators as similar as 01:15:03
 20 possible and then making adjustments is 01:15:07
 21 practiced. And I believe it's practiced 01:15:09
 22 widely. 01:15:11

23 Q. Can you identify any other areas 01:15:12
 24 where the standard of seeking comparators 01:15:15
 25 as similar as possible as opposed to 01:15:17

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1 similar in all respects except for the 01:15:20
 2 conduct at issue -- 01:15:24
 3 A. It's done all the time in real 01:15:25
 4 estate. 01:15:28

5 Q. All right. And when you say 01:15:28
 6 "It's done ... in real estate," what are 01:15:29
 7 you referring to? 01:15:34
 8 A. Well, it's done when assessors or 01:15:34
 9 appraisers evaluate the value of a house. 01:15:37
 10 They look at two houses. Hopefully, 01:15:40
 11 they're in the same neighborhood. Even 01:15:43
 12 though they're in the same neighborhood, 01:15:45
 13 one might be closer to a main street, one 01:15:47
 14 is a little bit further from the main 01:15:47
 15 street. They make an adjustment for that. 01:15:50
 16 One has five bathrooms, one as four 01:15:50
 17 bathrooms. They make an adjustment for 01:15:53
 18 that. 01:15:54

19 But you're talking about, you 01:15:55
 20 know, family houses in the same 01:15:56
 21 neighborhood and they have different 01:16:00
 22 values. So you control for all of these 01:16:02
 23 different things, even though they're not 01:16:04
 24 identical. 01:16:06

25 I was involved earlier this year 01:16:06

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1 in a case in San Francisco where the 01:16:08
 2 appraisers in the City of San Francisco, 01:16:11
 3 the appraiser board, was trying to 01:16:14
 4 determine what the appropriate possessory 01:16:16
 5 interest tax to be levied on the Giants, 01:16:20
 6 San Francisco Giants, was for AT&T Park. 01:16:24

7 And the analysis that was done by 01:16:28
 8 the appraisers hired by the Giants was 01:16:31
 9 precisely that: They were looking at the 01:16:34
 10 parcel in China Basin where AT&T Park sits, 01:16:36
 11 and comparing it to other lots that were 01:16:48
 12 either on the bay or near the bay and had 01:16:50
 13 different -- had differential access to the 01:16:52
 14 downtown district, the business district. 01:16:56

15 So you do this all the time, and 01:16:58
 16 it's -- in reality, we're not dealing with 01:17:01
 17 laboratories. We're dealing with real 01:17:04
 18 things and they don't usually resemble each 01:17:06
 19 other exactly in all variables but one. 01:17:09

20 Q. And you don't consider the five 01:17:15
 21 sports to resemble each other exactly in 01:17:17
 22 all variables, except the one of the 01:17:19
 23 alleged anticompetitive act? 01:17:23

24 A. They don't resemble in all 01:17:24
 25 variables, except one. And the one that I 01:17:26

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1 spent time looking at is the one that Zuffa 01:17:28
 2 suggested was the one that made it 01:17:29
 3 different. 01:17:30

4 Q. And you've used the example of 01:17:30
 5 appraising the value of a house. Also I 01:17:35
 6 guess you were appraising -- I'm not sure 01:17:37
 7 what you were appraising in San Francisco, 01:17:44
 8 but there was another appraisal. 01:17:46

9 Do you consider the method of 01:17:49
 10 damages analysis you've used here to be 01:17:50
 11 analogous or the same as an appraisal on 01:17:53
 12 real estate? 01:17:56

13 A. Excuse me. You're asking me 01:17:57
 14 about the practice and the discipline with 01:17:58
 15 regard to using -- identifying comparators 01:18:00
 16 and the legitimacy of using those 01:18:03
 17 comparators with some base enterprise in 01:18:05
 18 order to derive an estimate of an impact. 01:18:09
 19 And I'm giving you examples, multiple 01:18:11
 20 examples, of ways that that's done all the 01:18:14
 21 time. 01:18:16

22 Q. And so in doing your -- but the 01:18:17
 23 examples you're using were real estate 01:18:21
 24 appraisals, either in relationship to 01:18:24
 25 houses or a stadium; is that right? 01:18:27

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1 A. That's correct. 01:18:29
 2 Q. And in choosing a yardstick in 01:18:30
 3 this case -- let me say there are standards 01:18:36
 4 for the appraisals of real property or 01:18:40
 5 stadiums, right? 01:18:43
 6 A. Yes. 01:18:44
 7 Q. Would you consider yourself -- do 01:18:45
 8 you believe that you should follow those 01:18:52
 9 standards in estimating -- in picking a 01:18:54
 10 yardstick in this case? 01:18:56
 11 A. I think that I've followed those 01:18:58
 12 standards and I've described that already. 01:18:59
 13 Q. And those standards for a real 01:19:01
 14 estate appraisal or a stadium appraisal, 01:19:05
 15 where would those be set forth? 01:19:09
 16 A. There are real estate handbooks, 01:19:11
 17 appraisers' handbooks. 01:19:13
 18 Q. And those are handbooks that 01:19:13
 19 you're familiar with? 01:19:14
 20 A. In part. I've read them. I 01:19:15
 21 didn't do the analysis I was just 01:19:17
 22 describing for China Basin and AT&T Park. 01:19:19
 23 I didn't do it. They were working on the 01:19:23
 24 same side of the case as I was. There were 01:19:24
 25 real estate appraisers who were doing that. 01:19:28

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1 Q. And you wouldn't consider 01:19:30
 2 yourself as an expert in appraisals, I 01:19:31
 3 assume? 01:19:34
 4 A. No, but you asked me if I was 01:19:34
 5 familiar with those handbooks. 01:19:36
 6 Q. And is there anything within the 01:19:37
 7 field of economics that is -- you told me 01:19:40
 8 that there were standards for appraisals. 01:19:45
 9 Is there anything within the 01:19:47
 10 field of economics or damages analysis that 01:19:48
 11 you could point to that would establish any 01:19:51
 12 standards for selecting a yardstick? 01:19:53
 13 A. So we -- it's done all the time 01:19:55
 14 with multiple regression analysis. You 01:19:57
 15 have control variables that try to control 01:19:59
 16 for the differences in sets of data or in 01:20:01
 17 outcomes. There is no presumption that 01:20:09
 18 there is -- that you're able to control all 01:20:13
 19 the other variables. All you're trying to 01:20:15
 20 do is estimate the impact that, including 01:20:18
 21 those variables, would have on the 01:20:21
 22 coefficient that you're looking at. 01:20:22
 23 But, again, this is not a 01:20:24
 24 laboratory where you can set the 01:20:28
 25 temperature at 98 degrees and you can put 01:20:29

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1 so much acidity in the bowl, and so on and 01:20:33
 2 so forth. This is the real world, and you 01:20:37
 3 do the best you can to control for the 01:20:39
 4 influences that are out there. 01:20:41
 5 Q. All right. So in the field of 01:20:46
 6 economics, there is a literature and a 01:20:47
 7 discussion and a field that discusses how 01:20:50
 8 to appropriately conduct a multiple 01:20:54
 9 regression analysis. Do you agree with 01:20:58
 10 that? 01:21:00
 11 A. Yes. 01:21:00
 12 Q. In the field of economics, 01:21:03
 13 however, you can't point me to any 01:21:04
 14 literature discussion or anything else in 01:21:07
 15 the field that discusses how to 01:21:08
 16 appropriately select a yardstick for an 01:21:10
 17 analysis such as you've conducted; is that 01:21:15
 18 right? 01:21:17
 19 MR. CRAMER: Asked and answered. 01:21:17
 20 I'm sorry. 01:21:17
 21 THE WITNESS: I'm sorry, what did 01:21:22
 22 you say? 01:21:22
 23 MR. CRAMER: I wasn't sure if he 01:21:23
 24 was done. 01:21:25
 25 MR. ISAACSON: I'm done. 01:21:26

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1 MR. CRAMER: Asked and answered. 01:21:29
 2 Go ahead. 01:21:29
 3 A. Yes. I believe I answered that 01:21:29
 4 question at least once. 01:21:31
 5 Q. I just want to make sure I have 01:21:37
 6 it right. I apologize if sometimes we're
 7 having a discussion and --
 8 THE WITNESS: Madam Court
 9 Reporter, are you able to --
 10 Q. I can read it back I think.
 11 In the field of economics -- 01:21:37
 12 A. No, no. I want her to read back 01:21:39
 13 my answer. 01:21:40
 14 Q. Your answer was -- you haven't 01:21:41
 15 answered this question. You said, "I 01:21:46
 16 answered that question at least once." 01:21:47
 17 MR. CRAMER: Earlier in the 01:21:49
 18 deposition. You asked it about ten 01:21:50
 19 or fifteen minutes ago. 01:21:51
 20 Q. Okay. Let's just see if we can 01:21:52
 21 get this. 01:21:54
 22 In the field of economics, you 01:21:55
 23 can't point me to any literature or 01:21:56
 24 discussion or anything else in the field 01:21:58
 25 that discusses how to appropriately select 01:21:59

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1 a yardstick for an analysis such as you've 01:22:02
 2 conducted; is that right? 01:22:05
 3 MR. CRAMER: Same objections. 01:22:06
 4 A. I think I said before at least 01:22:07
 5 once, and I'll say it again, that I cannot 01:22:10
 6 point you to any journal article that would 01:22:12
 7 identify a methodology for selecting 01:22:15
 8 yardsticks. 01:22:17

9 Q. When you select, when you're 01:22:18
 10 comparing firms as yardsticks, should you 01:22:22
 11 look at the quantity and quality of the 01:22:24
 12 sales and marketing organizations of the 01:22:27
 13 businesses? 01:22:28

14 A. When you're comparing firms about 01:22:28
 15 what? 01:22:33

16 Q. As a potential yardstick. 01:22:34

17 A. No, no. You're comparing firms 01:22:35
 18 along what variable? What are you trying 01:22:37
 19 to discern? 01:22:40

20 Q. So you talked about how you want 01:22:40
 21 the firms to be as comparable -- 01:22:42

22 A. Right. 01:22:42

23 Q. -- as possible. 01:22:44

24 A. Okay. 01:22:45

25 Q. All right. Is one factor which 01:22:46

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1 you should look at the respective quantity 01:22:47
 2 and quality of the sales and marketing of 01:22:51
 3 the businesses you're going to compare? 01:22:54
 4 A. Probably. But you haven't told 01:22:56
 5 me what you're trying to find out about the 01:22:58
 6 firms. Say it's profitability, for 01:23:00
 7 instance? 01:23:03

8 Q. Right. 01:23:03

9 A. Well, surely you'd want to look 01:23:03
 10 at quality of management. 01:23:05

11 Q. If you're looking at firms to 01:23:06
 12 determine whether the differences between 01:23:08
 13 them is solely due to the effect of alleged 01:23:09
 14 anticompetitive conduct, should you also 01:23:14
 15 look at their respective sales and 01:23:16
 16 marketing efforts? 01:23:19

17 MR. CRAMER: Incomplete 01:23:20
 18 hypothetical. Objection. 01:23:21

19 A. Yeah, I think it's incomplete, 01:23:23
 20 but I'll go along with you. Probably it 01:23:25
 21 would be a good idea to look at that. 01:23:27

22 Q. In making that comparison, should 01:23:29
 23 you look at the respective capitalization 01:23:31
 24 of the businesses? 01:23:33

25 A. Okay. So you're positing that we 01:23:34

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1 want to see the differential behavior 01:23:40
 2 between the firms in terms of antitrust 01:23:47
 3 issues you're saying? 01:23:49

4 Q. If you look at firms to determine 01:23:50
 5 whether the difference between them is 01:23:51
 6 solely due to the effect of alleged 01:23:53
 7 anticompetitive conduct, should you compare 01:23:54
 8 the capitalizations of the firms? 01:23:55

9 MR. CRAMER: Objection to form. 01:23:56

10 A. And you're looking at these firms 01:23:58
 11 in order to see what outcomes? 01:24:01

12 There is a hypothesis that says 01:24:07
 13 these firms have different behavior, they 01:24:09
 14 have different outcomes because of the 01:24:13
 15 degree to which they might impinge on 01:24:15
 16 antitrust laws. Is that what you're -- 01:24:17

17 Q. Or, in your terms, of whether 01:24:19
 18 they've engaged in the anticompetitive 01:24:21
 19 conduct. 01:24:23

20 A. It's -- you really have to give 01:24:25
 21 me more of that picture to respond to you. 01:24:28

22 Q. Well, if you're taking two firms 01:24:29
 23 and you're deciding whether to compare 01:24:34
 24 them, determine whether a comparison is 01:24:36
 25 appropriate to determine whether the 01:24:39

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1 difference between them is solely due to 01:24:41
 2 anticompetitive conduct by one, can you 01:24:44
 3 tell me factors that you should consider in 01:24:47
 4 determining whether that comparison is -- 01:24:50

5 A. And so -- right. So what I -- 01:24:52

6 Q. Let me finish. 01:24:54

7 A. Okay. 01:24:54

8 Q. If you're taking two firms and 01:25:12
 9 you're deciding whether to compare them and 01:25:14
 10 determine whether a comparison is 01:25:16
 11 appropriate to see whether the difference 01:25:18
 12 between them is solely due to 01:25:20
 13 anticompetitive conduct by one, can you 01:25:22
 14 tell me the factors you should consider in 01:25:24
 15 determining whether that comparison is 01:25:26
 16 appropriate? 01:25:27

17 MR. CRAMER: Objection to form. 01:25:28

18 Are you asking in this hypothetical 01:25:28
 19 -- what are you trying to determine 01:25:31
 20 in this hypothetical about the 01:25:33
 21 differences between the firms? 01:25:34

22 Because I don't think he's... 01:25:36

23 Q. All right. When you're looking 01:25:38
 24 at whether to choose a firm as a yardstick 01:25:41
 25 and your purpose of using this yardstick is 01:25:46

	Page 170		Page 172		
1	to determine whether a comparison with the	01:25:49	1	A. Yes.	01:27:18
2	yardstick to another firm is solely due	01:25:51	2	Q. In deciding whether that	01:27:18
3	anticompetitive conduct by the other firm,	01:25:59	3	comparison to other firms is appropriate --	01:27:23
4	what factor should you consider to	01:26:01	4	A. Right.	01:27:25
5	determine whether that's an appropriate	01:26:02	5	Q. -- what factors should you look	01:27:26
6	yardstick?	01:26:04	6	at to determine whether that's an	01:27:30
7	A. I'm sorry, and --	01:26:04	7	appropriate comparison?	01:27:34
8	MR. CRAMER: And a yardstick to	01:26:05	8	A. And you were suggesting based	01:27:36
9	determine what?	01:26:06	9	upon your incomplete hypothetical that the	01:27:38
10	THE WITNESS: Right.	01:26:07	10	quality of management is one thing that I	01:27:40
11	MR. CRAMER: I don't think he's	01:26:07	11	should be looking at; is that correct? Is	01:27:42
12	following your hypothetical.	01:26:09	12	that where we're --	01:27:45
13	MR. ISAACSON: Well, he hasn't	01:26:10	13	Q. Where we --	01:27:46
14	said that.	01:26:12	14	A. I'm trying to cut to the chase --	01:27:47
15	A. So we have -- we're engaging in	01:26:12	15	Q. I'm asking you --	01:27:49
16	this exercise to compare these two firms,	01:26:15	16	A. -- because you're asking vague	01:27:51
17	because one of the firms presumably has	01:26:19	17	broad questions.	01:27:54
18	done something; maybe their prices are much	01:26:21	18	Q. I'm asking you within the	01:27:54
19	higher, maybe their output is much lower,	01:26:23	19	standards of your field --	01:27:57
20	maybe there is a quality of output	01:26:26	20	A. Right.	01:27:57
21	question.	01:26:29	21	Q. -- in selecting a yardstick --	01:27:57
22	So I'm trying to ask you, what is	01:26:29	22	A. Right.	01:27:59
23	it that we're trying to explain? And you	01:26:31	23	Q. -- where you're comparing it to	01:27:59
24	said one of the variables we're using,	01:26:33	24	Zuffa, what are the things you should look	01:28:01
25	we're trying to explain something, whatever	01:26:34	25	at to determine whether it's an appropriate	01:28:05
	Page 171		Page 173		
1	it is. One of the variables we're looking	01:26:36	1	yardstick?	01:28:08
2	at is anticompetitive behavior, right?	01:26:38	2	A. Look at anticompetitive behavior	01:28:08
3	Q. Right. Let me see if I can help	01:26:42	3	in the two leagues or in the comparator	01:28:16
4	you out with this.	01:26:43	4	group and Zuffa, look at the factor that	01:28:20
5	A. Okay.	01:26:44	5	Zuffa says distinguishes it from the other	01:28:23
6	Q. In this case, you compared some	01:26:45	6	league.	01:28:26
7	other firms --	01:26:47	7	The notion that I should look at	01:28:30
8	A. Right.	01:26:48	8	quality of management is problematic for	01:28:31
9	Q. -- to Zuffa --	01:26:48	9	several reasons.	01:28:34
10	A. Right.	01:26:50	10	Q. I just want to --	01:28:36
11	Q. -- to determine whether --	01:26:50	11	MR. CRAMER: Were you done with	01:28:37
12	A. Right.	01:26:52	12	your answer?	01:28:38
13	Q. -- and you concluded that the	01:26:52	13	A. I'm not done.	01:28:39
14	differences between those firms --	01:26:54	14	Q. I will let him, but for purposes	01:28:40
15	A. Right.	01:26:56	15	of my question to save time, I'm trying to	01:28:41
16	Q. -- were due to --	01:26:56	16	ask him what it is you think was	01:28:45
17	A. Now can I look at --	01:26:57	17	appropriate -- what you should consider.	01:28:46
18	Q. -- were due to the alleged	01:26:58	18	You told me the comparison of the	01:28:48
19	anticompetitive conduct by Zuffa, correct?	01:27:02	19	anticompetitive conduct and you told me	01:28:50
20	A. Correct.	01:27:03	20	Zuffa's explanation of the production,	01:28:52
21	Q. And you decided that it was	01:27:04	21	correct?	01:28:53
22	appropriate to compare those other firms	01:27:07	22	A. Right.	01:28:53
23	and decide that the only difference between	01:27:10	23	MR. CRAMER: Zuffa's what?	01:28:54
24	those firms was due to the alleged	01:27:13	24	Q. That Zuffa handles TV production.	01:28:56
25	anticompetitive conduct, correct?	01:27:15	25	He said it's that. Okay?	01:29:00

		Page 206			Page 208
1	at? What would you want to study to	02:01:06	1	about variability of revenue. You just	02:03:20
2	determine whether it was an appropriate	02:01:07	2	answered risk.	02:03:20
3	comparison?	02:01:09	3	Are those interchangeable for	02:03:22
4	MR. CRAMER: Same objection. He	02:01:09	4	purposes of this discussion?	02:03:24
5	already answered.	02:01:10	5	A. Risk and variability of revenue?	02:03:25
6	A. So there are capital costs for	02:01:11	6	Q. Yes.	02:03:28
7	the physical studios, there are	02:01:16	7	A. Interchangeable, no. But very	02:03:28
8	transportation cost, there are insurance	02:01:19	8	similar. Overlapping. Substantial	02:03:31
9	costs, there are administrative costs. I	02:01:21	9	overlapping.	02:03:34
10	would like to study those, the size of them	02:01:24	10	Q. So you would want to look at in	02:03:35
11	and how they vary before I would throw this	02:01:27	11	determining whether to compare the firms,	02:03:37
12	into the hopper as a comparator.	02:01:30	12	you would want to look at the overall risk	02:03:39
13	Q. What would you be looking at to	02:01:35	13	profile, and that would include the	02:03:41
14	determine with respect to those costs to	02:01:37	14	variability of revenue across projects?	02:03:43
15	determine whether the comparison was valid?	02:01:39	15	A. Yes.	02:03:45
16	A. I would want to look at the share	02:01:41	16	Q. Are there any other factors that	02:03:46
17	of those costs as a share of total revenue.	02:01:43	17	you would want to investigate or study to	02:03:53
18	Q. So would you be looking at	02:01:48	18	determine whether the comparison to the	02:03:55
19	whether the share of those costs was, for	02:01:50	19	movie industry was appropriate?	02:03:57
20	example, higher than the share of similar	02:01:52	20	A. Yeah.	02:03:57
21	cost for Zuffa or less? I'm trying to	02:01:56	21	Q. You've mentioned share of cost --	02:03:59
22	understand what you're looking for.	02:01:58	22	A. There might be. I can't think of	02:04:01
23	MR. CRAMER: Asked and answered.	02:01:59	23	any as I sit here.	02:04:02
24	Objection.	02:02:00	24	Q. You've got to let me finish the	02:04:03
25	A. I would look at the relative	02:02:00	25	question.	02:04:06
		Page 207			Page 209
1	shares relative to Zuffa, relative to the	02:02:03	1	Now, you've --	02:04:23
2	other comparators.	02:02:05	2	MR. CRAMER: Maybe we should take	02:04:23
3	Q. Is there anything else you would	02:02:07	3	a break.	02:04:25
4	be looking at to determine whether it was	02:02:17	4	MR. ISAACSON: Yeah, we've been	02:04:25
5	an appropriate comparison other than the	02:02:19	5	going for over an hour.	02:04:27
6	share of costs that were paid by the movie	02:02:21	6	VIDEO TECHNICIAN: Off the record	02:04:28
7	studios?	02:02:29	7	at 2:04 p.m.	02:04:32
8	A. Yeah. I'd want to look at risk.	02:02:29	8	(Proceedings recessed at	02:04:34
9	I'd want to look at the variability of	02:02:32	9	2:04 p.m., and reconvened at 2:20	02:04:34
10	revenue across projects.	02:02:34	10	p.m.)	02:21:13
11	Q. Why would the variability of	02:02:45	11	VIDEO TECHNICIAN: We're back on	02:21:13
12	revenue across projects be relevant to you	02:02:48	12	the record at 2:20 p.m.	02:21:16
13	in comparing two firms as yardsticks?	02:02:51	13	BY MR. ISAACSON:	02:21:18
14	A. Because other things being equal,	02:02:54	14	Q. We've discussed before that in	02:21:18
15	you would expect two industries that were	02:02:56	15	estimating damages and comparing to a	02:21:28
16	otherwise identical where one of them had	02:02:58	16	yardstick, you compared the percentage of	02:21:30
17	more risk in it than the other, that in	02:02:59	17	revenues paid to athletes or fighters	02:21:33
18	order to attract capital, the industry that	02:03:02	18	between other sports and Zuffa. And it's	02:21:37
19	had more risk would demand a higher rate of	02:03:04	19	your -- now across industries and in the	02:21:44
20	return. And a higher rate of return would	02:03:07	20	economics literature is there data or	02:21:59
21	mean there was less money available to pay	02:03:09	21	studies with the percentage of revenues	02:22:03
22	labor in general.	02:03:11	22	that are paid to labor, whether those labor	02:22:05
23	Q. And you said I want to look at	02:03:13	23	are employees or contractors in a	02:22:07
24	risk, I want to look at the variability of	02:03:15	24	competitive industry?	02:22:10
25	revenue across projects. And I asked you	02:03:18	25	MR. DAVIS: Objection to form.	02:22:15

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1	were antitrust cases? 02:30:17	1	Sports Management, that's had some articles 02:32:49
2	A. I'm not sure offhand. Maybe 02:30:20	2	related to that. 02:32:51
3	five. 02:30:22	3	So I'm aware of the literature 02:32:52
4	Q. Can you tell me any case where 02:30:22	4	that's available on monopsony and empirical 02:32:54
5	you previously estimated damages by 02:30:27	5	estimates of its impact in the sports 02:33:00
6	comparing firms based on the percentage of 02:30:29	6	field. 02:33:03
7	revenues they paid to labor? 02:30:31	7	Q. So are you aware of any 02:33:03
8	MR. CRAMER: Objection to form. 02:30:34	8	peer-reviewed literature that is -- that 02:33:05
9	A. I'm not sure as I sit here that 02:30:34	9	looks at the effect of monopsony on the 02:33:08
10	I've estimated damages to labor at all in 02:30:43	10	share of revenue paid to labor outside of 02:33:11
11	an antitrust case. I might have, but I 02:30:49	11	the sports industry? 02:33:14
12	don't recall off the top of my head. 02:30:52	12	A. I think I answered that already. 02:33:15
13	Q. Can you identify to me any 02:30:53	13	I can't cite you any such literature today. 02:33:17
14	published literature in your field that has 02:30:55	14	Q. Within the field of sports 02:33:21
15	either looked at the issue of damages or 02:31:01	15	economics that you mentioned, had there 02:33:29
16	the anticompetitive effect of conduct by 02:31:03	16	been any -- well, let me start over. 02:33:38
17	comparing firms based on the percentage of 02:31:08	17	You mentioned multiple regression 02:33:40
18	revenue paid to labor? 02:31:10	18	analysis earlier. That's an established 02:33:44
19	A. Can you repeat the question? 02:31:13	19	method within the field of economics for 02:33:47
20	Q. Sure. Can you identify to me any 02:31:14	20	determining the potential of 02:33:51
21	published literature in your field that has 02:31:17	21	anticompetitive effect of conduct, correct? 02:33:53
22	looked at the issue of damages or the 02:31:20	22	A. Yes. 02:33:57
23	anticompetitive effect of conduct by 02:31:22	23	Q. Okay. And that's not limited to 02:33:57
24	comparing firms based on the percentage of 02:31:23	24	the sports industry, correct? 02:34:02
25	revenue paid to labor? 02:31:25	25	A. Correct. 02:34:04
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1	MR. CRAMER: Objection to form. 02:31:26	1	Q. And that method has been, for 02:34:05
2	A. All right. Not as I sit here 02:31:27	2	example, subject to testing to determine 02:34:10
3	today, I can't. 02:31:30	3	whether it's a reliable method of -- if 02:34:14
4	Q. Are you aware of any 02:31:30	4	performed well of determining an 02:34:20
5	peer-reviewed literature anywhere that has 02:31:41	5	anticompetitive effect. Do you agree with 02:34:24
6	determined or studied the anticompetitive 02:31:45	6	that? 02:34:26
7	effect of conduct by comparing firms based 02:31:50	7	A. That it is a reliable method for 02:34:29
8	on the percentage of revenues paid to 02:31:54	8	determining anticompetitive effect? Is 02:34:33
9	labor? 02:31:56	9	that what you're -- 02:34:35
10	A. I'm aware of literature, 02:31:58	10	Q. Yes. And that's been determined 02:34:36
11	peer-reviewed literature, that looks at the 02:32:01	11	by testing in the field. 02:34:38
12	effect of monopsony on labor share. 02:32:04	12	A. It's been determined to be what? 02:34:39
13	Q. And what is that literature? 02:32:11	13	Q. If performed correctly, a 02:34:41
14	A. Well, there is something called 02:32:13	14	reliable method of determining -- 02:34:43
15	the Journal of Sports Economics. It's had 02:32:17	15	A. Oh, yes. 02:34:45
16	a bunch of articles on that. 02:32:20	16	Q. And that's been determined by 02:34:45
17	There is a seminal article that 02:32:22	17	substantial testing in the economics 02:34:47
18	was done by Jerry Scully in the American 02:32:24	18	literature. 02:34:48
19	Economic Review in 1972. There is a book 02:32:27	19	A. So it's been determined by 02:34:52
20	that was edited by Roger Noll called 02:32:29	20	testing that econometric testing is 02:34:53
21	"Government in the Sports Business." Did I 02:32:34	21	reliable? So what does that mean, it's 02:34:56
22	say it was published by Brookings? That's 02:32:36	22	been determined by testing that econometric 02:34:58
23	also rather old. 02:32:40	23	evidence -- 02:35:02
24	There is a Journal of Sport 02:32:42	24	Q. Meaning it's been tested for 02:35:02
25	Management, The International Journal of 02:32:46	25	accuracy across different models, for 02:35:04

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1	example.	02:35:06	1	an accurate and reliable method of	02:37:24
2	A. Okay. Yes.	02:35:06	2	determining whether there is an	02:37:27
3	Q. And that's all true of a	02:35:08	3	anticompetitive impact.	02:37:28
4	regression model?	02:35:09	4	A. Wow. Um, so -- and I'm looking	02:37:29
5	A. Yes.	02:35:11	5	at one firm in one industry?	02:37:34
6	Q. Has there been any testing done	02:35:11	6	Q. I'm talking about the method as	02:37:38
7	within the sports industry of whether a	02:35:14	7	opposed to the firm.	02:37:40
8	comparison of the percentage of revenues	02:35:19	8	A. But that's -- if you're asking me	02:37:43
9	paid to labor by a sports business is a	02:35:22	9	to design an econometric model for you, I	02:37:46
10	reliable or valid means of evaluating an	02:35:25	10	have to know what you're talking about. I	02:37:51
11	anticompetitive effect?	02:35:30	11	have to know the parameters of what you're	02:37:52
12	A. As I sit here today, I can't	02:35:31	12	talking about.	02:37:54
13	think of any such literature.	02:35:34	13	Clearly, one of the things that	02:37:55
14	Q. If you wanted to test the	02:35:35	14	one would be trying to set up here is you'd	02:37:56
15	validity or reliability of looking at the	02:35:43	15	have to have some independent index of	02:37:59
16	percentage of revenue paid to labor by a	02:35:48	16	anticompetitive behavior. Maybe it would	02:38:01
17	firm as a method for assessing	02:35:52	17	be percent price increases over the course	02:38:06
18	anticompetitive impact, how would you go	02:35:57	18	of the past year. And you would look at	02:38:07
19	about testing it?	02:36:00	19	whether or not -- or if -- you might look	02:38:14
20	MR. CRAMER: Objection to form.	02:36:00	20	at the percent increase in wages. You	02:38:17
21	A. Can you repeat the question?	02:36:01	21	would expect to find that wage increases	02:38:20
22	Q. Sure. Suppose I wanted to test	02:36:07	22	would be smaller.	02:38:26
23	the validity -- suppose you wanted to test,	02:36:08	23	So you would look at a number of	02:38:28
24	which would be more valid, suppose you	02:36:11	24	firms in a number of industries, and the	02:38:30
25	wanted to test the validity or reliability	02:36:13	25	independent variables would be the percent	02:38:34
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1	of looking at the percentage of revenue	02:36:15	1	of revenue that's paid to labor and then	02:38:37
2	paid to labor by a firm as a method for	02:36:17	2	you'd have some criterion that was the	02:38:38
3	assessing anticompetitive impact, how would	02:36:19	3	dependent variable, that would maybe it	02:38:44
4	you go about that testing process?	02:36:21	4	would be price increases, maybe it would be	02:38:48
5	A. This is one firm in a particular	02:36:23	5	something else, that would be a proxy for	02:38:49
6	industry. And what data do I have at my	02:36:26	6	anticompetitive behavior, and you'd see	02:38:52
7	disposal?	02:36:29	7	what the relationship is.	02:38:54
8	Q. So I'm not being clear in my	02:36:31	8	Q. That econometric model that you	02:38:58
9	question if you're asking about the data.	02:36:33	9	just described, that was a regression	02:39:01
10	I'm posing a world where you	02:36:36	10	analysis?	02:39:03
11	have good data; all right?	02:36:38	11	A. It could be, yeah.	02:39:04
12	A. Okay, we have good data. Yeah.	02:36:40	12	Q. One way of testing, rather, of	02:39:14
13	Q. And you want to know whether	02:36:42	13	looking at percentage of revenues paid to	02:39:16
14	looking at the percentage of revenue paid	02:36:44	14	labor as a comparison between firms as a	02:39:17
15	to labor as opposed to, for example, the	02:36:47	15	valid method of assessing anticompetitive	02:39:20
16	actual salaries or rate of salary increase.	02:36:52	16	impact would be to engage in a regression	02:39:26
17	If you want to know whether the percentage	02:36:59	17	analysis; is that correct?	02:39:29
18	of revenue is a valid method for looking at	02:37:01	18	A. It could be.	02:39:31
19	whether there has been an anticompetitive	02:37:04	19	Q. And a regression analysis would	02:39:32
20	impact, how would you go about testing	02:37:06	20	be an established, well-accepted method of	02:39:38
21	that?	02:37:08	21	determining the effect of anticompetitive	02:39:42
22	A. I want to find out if the	02:37:09	22	behavior?	02:39:44
23	percentage of revenue paid in a particular	02:37:16	23	A. I think there is a lot of	02:39:44
24	firm has an anticompetitive impact?	02:37:20	24	controversy, frankly, in this application.	02:39:46
25	Q. You want to know whether that is	02:37:23	25	But, yes, it has been used very widely.	02:39:48

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1	Q. And if you conducted a regression analysis of the anticompetitive effect of a restriction on labor pay and the only variable was the anticompetitive restriction, what would be the problems with that? 02:39:56 02:39:59 02:40:10 02:40:16 02:40:19 02:40:22	1 -- as opposed to the percentage of net profits after costs? 02:42:35 02:42:37
2	MR. CRAMER: Objection to form.	2 A. Well, I don't have, and I don't know that anybody has data on what you're calling net profits. Do you mean net income by the way? What are you talking about? 02:42:38 02:42:53 02:42:55 02:42:58
3	Incomplete hypothetical. Asked and answered for that matter. 02:40:24 02:40:30	3 Q. You said net income. 02:43:02
4	A. I'm not sure what you're asking. But what one does when you use regression analysis is generally using multiple regression analysis. You want a control for other variables. And you would have -- you'd have your desired variables in there along with the regression variable -- excuse me -- along with the control variables. 02:40:35 02:40:39 02:40:41 02:40:44 02:40:46 02:40:55 02:40:58 02:41:00 02:41:03	4 A. Yeah. So net income deducts interest. And we know, I think it's very clearly in the record here, that Zuffa has had very large interest costs because of [REDACTED] 02:42:39 02:43:05 02:43:08 02:43:10
5	I haven't done a regression analysis in this case. There is another expert report that uses that methodology. I've used a different methodology. And I feel like I have successfully controlled for most of the outside influences that would allow me to make a clean inference	5 [REDACTED] 02:43:26
6	02:41:05 02:41:07 02:41:11 02:41:15 02:41:17 02:41:20 02:41:24	6 I would have to have parallel data, similar data, for these other industries. But it's all proprietary and it's not available to me. 02:43:27 02:43:29 02:43:31 02:43:35
7	02:41:28 02:41:29 02:41:31	7 I actually have a good deal of data for baseball, but I can't use it. I don't have it for the other sports. 02:43:38 02:43:41 02:43:44
8	Q. When you say when you "have controlled for most of the outside influences," you have not done that actually within your model, correct?	8 Q. All right. Now, if a firm
9	02:41:32 02:41:34 02:41:38 02:41:40	9 02:43:47
10	MR. CRAMER: Objection to form.	10
11	A. Not within the model itself. But as I explained to you earlier, Zuffa pointed out the one variable that they thought made their case special. And I did account for that. I discussed that.	11
12	02:41:44 02:41:46 02:41:49 02:41:52 02:41:55	12
13	Other variables that we have talked about today I don't think have a decided inference on that question about the riskiness of the investment and questions about overall management quality.	13
14	02:41:57 02:41:58 02:42:00 02:42:06 02:42:10	14
15	I don't think that Zuffa stands out in those regards, and Zuffa itself didn't argue that it stood out in those regards.	15
16	02:42:14 02:42:16 02:42:18 02:42:21	16
17	Q. And why did you choose to compare the percentage of revenues paid to the five other sports and UFC fighters as compared	17
18	02:42:26 02:42:28 02:42:30	18
19	02:42:29	19
20	02:42:31	20
21	02:42:33	21
22	02:42:35	22
23	02:42:37	23
24	02:42:39	24
25	02:42:41	25
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1	A. Yes. So, as I said, MLS went	02:48:56	1 addresses. Their policy addresses the	02:51:29
2	through a court case in 1999, and the	02:48:58	2 amount that they pay.	02:51:31
3	District Court decided that it was a single	02:49:01	3 In terms of women's tennis, it's	02:51:32
4	entity. And they do all of their hiring,	02:49:03	4 largely the same situation. It's run by	02:51:33
5	except Beckham exception players, through	02:49:10	5 the WTA. And that also coordinates	02:51:36
6	the central office.	02:49:15	6 activity with the Tennis Association of	02:51:39
7	That is to say, there is a fellow	02:49:16	7 England, Tennis Association of France and	02:51:43
8	sitting in their office, their headquarters	02:49:18	8 Tennis Association of Australia for the	02:51:47
9	in New York City, who hires all the players	02:49:20	9 grand slams. It's a single employer.	02:51:49
10	and then allocates them to the teams,	02:49:24	10 Q. Why didn't you use NASCAR as a	02:51:51
11	except for the Beckham exception players.	02:49:26	11 potential benchmark?	02:51:55
12	So it's basically a monopsony,	02:49:30	12 A. NASCAR is a monopoly in the	02:51:57
13	maybe slightly modified at the edges. It	02:49:36	13 stockcar racing industry. It is the sole	02:52:03
14	would be an inappropriate benchmark for	02:49:39	14 sanctioning body. It also owns -- the	02:52:08
15	seeing what would happen in Zuffa if there	02:49:41	15 people who own NASCAR, which is the France	02:52:11
16	were competitive labor markets because	02:49:44	16 family, also own the International Speedway	02:52:16
17	there are not competitive labor markets in	02:49:45	17 Corporation, which owns most of the tracks	02:52:19
18	MLS.	02:49:47	18 that NASCAR races on. And they, again, get	02:52:21
19	I think you asked me about tennis	02:49:49	19 to set prices.	02:52:24
20	and golf as well?	02:49:50	20 Q. And why didn't you use any firms	02:52:34
21	Q. I also want to know why didn't	02:49:52	21 outside of sports as a benchmark?	02:52:37
22	you use professional tennis as a benchmark?	02:49:54	22 A. I was looking for benchmarks and	02:52:43
23	A. So I'll answer that with respect	02:49:57	23 comparators that had as much similarity as	02:52:46
24	to men's tennis. And if you want to ask me	02:50:02	24 possible with Zuffa, with MMA.	02:52:49
25	about women's tennis afterwards, you can.	02:50:05	25 Q. And why would, for example, the	02:52:55
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1	Men's tennis is governed by the	02:50:09	1 Major League Baseball have more	02:53:04
2	Association of Tennis Professionals, or	02:50:11	2 similarities to Zuffa than every other firm	02:53:07
3	ATP. They set the rules. They set the	02:50:14	3 outside of sports? Is it just because it's	02:53:11
4	prize money. They collaborate with the	02:50:17	4 a sport?	02:53:14
5	grand slams. And if you want to be -- if	02:50:19	5 A. No. Their revenue streams are	02:53:15
6	you want to participate in the grand slams,	02:50:24	6 similar to each other. They're selling	02:53:18
7	if you want to be recognized in the major	02:50:27	7 tickets, they're selling media rights and	02:53:21
8	tournaments, if you want to be nationally	02:50:29	8 television rights. They're selling	02:53:25
9	and internationally ranked, you play in the	02:50:31	9 sponsorships. They have to cover on the	02:53:28
10	ATP tournaments. They, too, are a single	02:50:34	10 cost side. They have to cover the cost of	02:53:29
11	employer.	02:50:37	11 their athletic talent. They have to either	02:53:31
12	Q. Does the Men's Tennis Association	02:50:39	12 rent or pay for in another way the	02:53:35
13	have anything to do with determining --	02:50:50	13 facilities that they're playing in. They	02:53:37
14	what are the constraints that the men's	02:50:56	14 have to pay in one measure or another for	02:53:38
15	tennis -- the ATP puts on the percentage of	02:50:58	15 the travel of the athletes.	02:53:40
16	revenue that's paid to the men's tennis	02:51:01	16 But the structure and the nature	02:53:42
17	players?	02:51:05	17 of the items that are involved on the	02:53:44
18	A. They apply no such constraint.	02:51:05	18 revenue side and the cost side are very	02:53:46
19	Q. I have the same questions about	02:51:08	19 similar.	02:53:48
20	professional women's tennis. How --	02:51:11	20 Q. So why didn't you include any	02:53:48
21	A. Okay. However, if I could, what	02:51:13	21 firms outside of sports that sell tickets	02:53:50
22	they set is the prize money, the purse.	02:51:16	22 and media rights?	02:53:53
23	And each tournament has an expected	02:51:18	23 A. Well, one of the reasons I didn't	02:53:55
24	revenue. So implicitly they're ballparking	02:51:21	24 look further, other than to have a footnote	02:54:02
25	a share, but that's not what their policy	02:51:26	25 about the movie industry, which you were	02:54:05

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1 kind enough to notice, is because I'm a 02:54:09
 2 sports economist and I understand the 02:54:11
 3 supports industry and I might have gone out 02:54:13
 4 and looked for Showcase Cinemas, for 02:54:15
 5 instance. They sell tickets. They don't 02:54:19
 6 sell television rights, but they sell 02:54:21
 7 tickets. 02:54:24
 8 So I might have tried to find 02:54:24
 9 some of those firms, but I don't know a 02:54:26
 10 great deal about them. And I felt 02:54:28
 11 comfortable with the nature of what happens 02:54:29
 12 in the sports leagues and the team sports 02:54:34
 13 leagues and in boxing to say that it's 02:54:36
 14 sufficiently similar and that I can account 02:54:38
 15 for and understand any differences with 02:54:41
 16 Zuffa. And so I chose them. 02:54:43

17 Q. Is it fair to say that because of 02:54:46
 18 your background and knowledge with sports 02:54:48
 19 economics that you didn't investigate as 02:54:56
 20 potential yardsticks firms that were out -- 02:54:58
 21 that were not in the sports industry? 02:55:02

22 MR. CRAMER: Objection to form. 02:55:04
 23 A. Part of the story is gaining 02:55:06
 24 access to information. The sports industry 02:55:09
 25 has an enormous amount that's written about 02:55:11

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1 it in detail. There are agencies out there 02:55:14
 2 and magazines out there and reporters out 02:55:18
 3 there like Forbes and like Spotcast, Spot 02:55:19
 4 Track rather, that make it their business 02:55:23
 5 to gather information from teams and 02:55:25
 6 assemble data. 02:55:27
 7 I also have contact with the 02:55:31
 8 leagues and the labor associations, with 02:55:33
 9 the commissioner's offices. I was able to 02:55:36
 10 gather additional data from them. 02:55:39
 11 What I always do when I do legal 02:55:42
 12 consulting, when I do expert work is to try 02:55:47
 13 to limit the amount of wasted time that I 02:55:50
 14 engage in. And I felt, A, that it's the 02:55:52
 15 sports industry and has the same basic 02:55:56
 16 revenue sources and the same nature of 02:55:59
 17 costs. 02:56:02
 18 B, that I understand it. And I 02:56:02
 19 understand some of the nuances of these 02:56:05
 20 industries. 02:56:07
 21 And, C, that I had much better 02:56:08
 22 access to the data that I would need. So 02:56:11
 23 that it made little sense in my mind for me 02:56:14
 24 to go out fishing for some other industries 02:56:18
 25 that might have similar structures, revenue 02:56:20

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1 and cost structures, where I didn't 02:56:22
 2 understand the nuances as well and where I 02:56:25
 3 wouldn't necessarily get access to data. 02:56:27
 4 Q. You've answered this question, 02:56:29
 5 but that was such a long answer that need 02:56:32
 6 to get it down to that last part. 02:56:34
 7 You said you didn't go fishing, 02:56:37
 8 because of the knowledge you already had 02:56:40
 9 about the sports industry. You didn't 02:56:42
 10 investigate the firms that would have been 02:56:44
 11 potential yardsticks outside of the sports 02:56:46
 12 industry; is that correct? 02:56:48
 13 MR. CRAMER: Objection to form. 02:56:48
 14 Asked and answered. He gave you the 02:56:50
 15 answer. If you'd like him to restate 02:56:51
 16 it, you can. 02:56:53
 17 MR. ISAACSON: I would like him 02:56:54
 18 to answer the question I just gave. 02:56:57
 19 A. Yes, so I agree with part of your 02:56:59
 20 answer, but you misstated or you 02:57:01
 21 understated my response. As a part of it 02:57:02
 22 had to do with similarity and a part of it 02:57:04
 23 had to do with access to information. 02:57:07
 24 Q. Is there some reason from the 02:57:09
 25 point of view of economics that assuming a 02:57:13

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1 software company is in a competitive 02:57:17
 2 industry and assuming a sports company is 02:57:19
 3 in a competitive industry, that the 02:57:22
 4 percentage of revenue paid to labor would 02:57:25
 5 be different? 02:57:29
 6 A. It has to do with the technology 02:57:30
 7 of the production process. Right? I mean, 02:57:33
 8 some production processes are very capital 02:57:37
 9 intensive and some are very labor 02:57:40
 10 intensive. Sports are very labor 02:57:42
 11 intensive, as a general matter. 02:57:44
 12 So I'd want to be comparing it to 02:57:45
 13 industries that are similar in the sense 02:57:50
 14 that they're labor intensive. Software 02:57:51
 15 companies are probably pretty capital 02:57:53
 16 intensive. You wouldn't expect the same 02:57:55
 17 kind of labor share. 02:57:58
 18 The labor share is determined by 02:57:59
 19 the productivity of the labor times the 02:58:01
 20 number of laborers. Productivity of labor 02:58:05
 21 is much higher when it's more capital 02:58:08
 22 intensive. 02:58:10
 23 Q. Can I ask you to look at 02:58:11
 24 Paragraph 91 of your report? 02:58:17
 25 A. I'm there. 02:58:34